

## Regulatory Impact Summary

Scope and Objectives—In 1989, the U.S. Nuclear Regulatory Commission (NRC) conducted a comprehensive regulatory impact survey and reported the results and corrective actions in SECY-91-172, "Regulatory Impact Survey Report—Final," issued June 7, 1991. On December 20, 1991, the Commission issued a staff requirements memorandum directing the staff to develop a process for obtaining continual feedback from licensees and report the feedback on the process to the Commission each year.

The staff described the continual feedback process in SECY-92-286, "Staff's Progress on Implementing Activities Described in SECY-91-172, Regulatory Impact Survey Report—Final," issued August 18, 1992. The feedback process requires the regional division directors and their deputies to solicit informal feedback from their licensee counterparts during routine visits to reactor sites. The managers record this feedback and forward the feedback forms to the Office of Nuclear Reactor Regulation (NRR). The regions and NRR then evaluate the concerns identified and take any necessary corrective actions. NRR evaluates this feedback along with other comments, such as from limited-scope surveys, to determine appropriate generic followup actions. This process, which was implemented in October 1992, has given licensees frequent opportunities to comment on regulatory impact.

In response to the October 1994 nuclear regulatory review study by Towers Perrin, the NRC implemented two additional feedback paths on July 11, 1995. Specifically, the Office of the Executive Director for Operations (OEDO) established a formal process by which power reactor licensee senior officials could report directly to OEDO regarding any regulatory actions that they considered inappropriate. In addition, each region developed a process for addressing concerns related to inappropriate regulatory actions by the NRC staff. Through this process, the regions receive, act on, resolve, or forward to other authorities (e.g., the NRC's Office of the Inspector General (OIG)) allegations of inappropriate actions by members of the NRC staff who are involved in inspections or other matters related to NRC-licensed activities.

Last year, as part of the "Roles & Responsibilities" initiative directed by the Commission, Region II led a regional effort to better align manager responsibilities during site visits with strategic plan goals. This initiative resulted in revised manager responsibilities and revised reporting of regulatory feedback.

This enclosure reports on feedback received from licensees from September 1, 2004, through August 31, 2005<sup>1</sup>. During this period, the staff received feedback from 91 reactor licensees on 253 issues. The staff also received feedback from the Regulatory Information Conference (RIC) in March 2005. Of the comments received, 83 percent were favorable and 17 percent were unfavorable. The comments fell into three main categories—formal communication with licensees, inspector performance, and security and safeguards activities.

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<sup>1</sup>Note that in calendar year 2006, the staff plans to realign the regulatory impact reporting period to coincide with the fiscal year.

The following sections summarize the feedback received, the staff's evaluation, and the proposed improvement actions.

#### A. Solicited Feedback

##### (1) Formal Communication with Licensees

###### Feedback

Almost one-half of the licensees' comments concerned the effectiveness of communication between the NRC staff and licensees, and more than 90 percent of these comments were favorable (up from 83 percent last year). Almost all comments were favorable with regard to communications with inspectors and regional management.

Many licensees said that communication was good or excellent, and others noted that the staff's communication skills have improved. Half of the unfavorable comments related to communication to resolve several complex regulatory issues at a specific site.

###### Evaluation and Action

The staff concludes that the communication between the NRC and its licensees is effective and that the reported communication problems were isolated instances. The staff based this conclusion on the large number of routine interactions between the NRC and its licensees, combined with the large number of favorable comments and the relatively small number of unfavorable comments received during the past year.

The staff is aware of the importance of prompt and accurate communication and emphasizes this goal in the policy, guidance, and training for the inspection program. Effective communications will remain a challenge and will receive continuing attention from regional and NRR management.

##### (2) Inspector Performance

###### Feedback

Over one-third of the licensees' comments concerned inspector performance. This category covers a wide range of inspector practices but excludes issues involving communication with licensees discussed in the previous section. More than 90 percent of the comments praised the NRC's inspection staff, noting the high quality of inspections, the technical competence, and the effective working relationship between the NRC and its licensees.

Licensees viewed inspections performed by resident and region-based inspectors (including team inspections) as professional and of high quality. Licensees had unfavorable comments on a number of different subjects, such as the effectiveness of an inspector exit meeting and the criteria to identify cross-cutting aspects.

## Evaluation and Action

The staff concludes that inspectors were generally professional and maintained effective working relationships. The percentage of favorable comments received this year was about the same as reported last year. The negative feedback was reviewed for trends and found to be isolated; therefore, no actions are needed at this time.

NRC management continues to emphasize to the staff the importance of proper behavior and demeanor. The NRC's Organizational Values and Principles of Good Regulation address standards for staff professionalism and behavior. Senior NRC managers reinforce these expectations in inspector counterpart meetings, workshops, and training courses and during site visits conducted in accordance with Inspection Manual Chapter 0102, "Oversight and Objectivity of Inspectors and Examiners at Reactor Facilities." The NRC's ongoing emphasis on proper behavior should result in improved working relationships between inspectors and licensees. The staff will continue to closely monitor inspector performance.

### (3) Security and Safeguards Activities

#### Feedback

Almost 10 percent of the comments received related to the NRC's security and safeguards activities and about three-quarters of those comments were unfavorable. Although some licensees complimented the effectiveness of the force-on-force exercises, the majority of licensees desired more stability and consistency with the process and expressed concerns with the number of regulatory changes in this area. Specifically, licensees stated that the changing regulatory environment for security and safeguards leads to unclear expectations, consistency issues, and higher costs.

#### Evaluation and Action

The Office of Nuclear Security and Incident Response has placed a high priority on communicating with licensees and other Federal agencies, including the Department of Homeland Security, the Homeland Security Council, the Federal Bureau of Investigation, and the intelligence community. This includes, in part, assessment of and response to the changing elevated threat environment, review and inspection of revised security plans for all 104 nuclear power reactors, and clarification of requirements for orders issued since September 11, 2001. This coordinated effort, lessons learned from program implementation, and ongoing rulemaking activities should help improve consistency and provide for a more stable regulatory environment. The staff also endeavors to continue its outreach efforts with various stakeholders (as appropriate) to help assure timely communication and involvement in regulatory activities.

### B. Inappropriate NRC Action Reported to the OEDO or Regional Administrators

As described above, the NRC has a procedure for resolving concerns raised by licensees regarding perceived inappropriate regulatory action by the NRC staff. During this reporting period, OEDO did not receive any reports of inappropriate behavior by NRC employees; however, power reactor licensees reported six cases to the regions.

## Feedback

Both cases reported to Region I were substantiated. The one case reported to Region II was referred to OIG, which declined to open a case. No cases were reported to Region III. Of the three cases reported to Region IV, one was substantiated, one was substantiated in part, and one was referred to OIG. The majority of cases involved professional performance issues, such as the inspector's professional skills in conducting inspections or communicating with licensee personnel.

## Evaluation and Action

The total number of cases reported in each region has decreased significantly from the 31 cases reported in 1997 and the 26 cases in 1998. For the last 7 years, the number of reported cases has been relatively stable, fluctuating between 6 to 12 cases a year. The staff plans to discontinue future reporting on these cases based on the low and stable number of cases. The regional offices will continue annual assessments in this area in accordance with Management Directive 8.17, "Licensee Complaints Against NRC Employees."

### C. Additional Feedback

In addition to soliciting feedback from licensees during site visits, the staff routinely provides opportunities for the industry to report on the impact of NRC programs and processes. During the current reporting period, the staff received feedback at the RIC in March 2005. Topics discussed at the RIC included the reactor oversight process, cross-cutting inspection issues, fire protection issues, safeguards and security issues, grid reliability, and regulatory trends. During an RIC breakout session, licensees from each region discussed issues of interest with the responsible regional administrator. No new issues were identified that this Commission paper has not already discussed.

The staff has made improvements to address regulatory impact concerns and continues to make progress in eliminating activities and practices that inappropriately affect licensee operations. The staff will continue to solicit, evaluate, and address feedback, identify and resolve specific and generic concerns related to the impact of the NRC's regulatory actions on licensee operations, and report any significant concerns to the Commission.